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09/211,527	12/14/1998	DAVID E. COX	5577-108	9792

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EXAMINER	
WILEY, DAVID ARMAND	

ART UNIT	PAPER NUMBER
2158	14

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Commissioner of Patents and Trademarks

The Reply Brief has been noted and the case is being forwarded the the Board of Appeals.

DAVID WILEY
PRIMARY EXAMINER

PTO-90C (Rev. 2/95)

1- File Copy

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte DAVID E. COX, JAMES CORVIN FLETCHER, DAVID BRUCE LINDQUIST, and CARL S. KESSLER

Appeal No. 2002-1707
Application No. 09/211,527

ON BRIEF

Before HAIRSTON, FLEMING, and BARRY, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

A patent examiner rejected claims 2, 7, 8-13 16, 21-27, 30, 35-41, and 43-45. The appellants appeal therefrom under 35 U.S.C. § 134(a). We reverse.

BACKGROUND

The invention at issue on appeal concerns network management of a "client-server" network. (Spec. at 1.) In such a network, client computers ("clients") are coupled to and supported by at least one server computer ("server"). Users may move

from location to location and need to access the network from different clients at different times. (*Id.* at 2.)

As the users move among the clients, however, differences in hardware or connections may create inefficiencies. For example, a user may employ a workstation having a high speed connection and a color monitor to execute a networked application in an early "session"[1] and employ a mobile computer having a low speed connection and a monochrome monitor to execute the same application in later session. Content that may have been appropriate for the earlier session (e.g., colored , high resolution data) may be inappropriate or inefficient for the later session. (*Id.* at 3.)

Accordingly, the appellants' invention modifies content provided to a user of a client. More specifically, session dependent data are provided to a server storing policies. Based on the policies and the session dependent data, the server modifies the content provided to the client. (Appeal Br. at 2.)

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[1]According to the appellants, a session is "a period of time where the operating environment of a remote processor connected to a network is not expected to change." (Spec. at 10.)

A further understanding of the invention can be achieved by reading the following claim.

> 9. A method of controlling content provided to a device of a user of a network, the method comprising:
>
> providing session dependent information associated with the device to a network device having stored policies which are based on the session dependent information; and
>
> automatically modifying the content provided by the network device to the device based on the policies and the provided session dependent information so as to modify the content provided to the user of the device.

Claims 2, 7, 8-13 16, 21-27, 30, 35-41, 43-45 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,835,726 ("Shwed") and U.S. Patent No. 6,009,459 ("Belfiore").

OPINION

Rather than reiterate the positions of the examiner or the appellants *in toto*, we address the main point of contention therebetween. Admitting that "Shwed et al fail to teach . . . modify[ing] content provided to the user of the device," (Final Rejection[2] at 3), the examiner asserts, "it would have been obvious . . . to modify S[h]wed et al's

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[2]"We advise the examiner to copy his rejections into his examiner's answers rather than merely referring to a "rejection . . . set forth in prior Office Action. . . ." (Examiner's Answer at 3.) *Ex parte Metcalf*, 67 USPQ2d 1633, 1635 (Bd.Pat.App.& Int. 2003).

inventive concept to include Belfiore et al's inventive concept that modify content provided to the user of the device because this would have ensure [sic] that the user receive the particular content selected in the search session." (*Id.*) The appellants argue, "in Belfiore, the only discussion of 'content' being altered occurs at the client and is not based on policies of the network device or session dependent information." (Appeal Br. at 6.)

In addressing the point of contention, the Board conducts a two-step analysis. First, we construe claims at issue to determine their scope. Second, we determine whether the construed claims would have been obvious.

1. CLAIM CONSTRUCTION

"Analysis begins with a key legal question -- *what* is the invention *claimed*?" *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1567, 1 USPQ2d 1593, 1597 (Fed. Cir. 1987). Here, independent claim 9 recites in pertinent part the following limitations: "providing session dependent information associated with the device to a network device having stored policies which are based on the session dependent information; and automatically modifying the content provided by the network device to the device based on the policies and the provided session dependent information so as to modify the content provided to the user of the device." Independent claims 23 and 37 recite

similar limitations. Accordingly, the limitations require modifying content provided to a user of a device based on policies stored in, and session dependent data provided to, a network device.

2. OBVIOUSNESS DETERMINATION

Having determined what subject matter is being claimed, the next inquiry is whether the subject matter would have been obvious. "In rejecting claims under 35 U.S.C. Section 103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness." *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993) (citing *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992)). "'A *prima facie* case of obviousness is established when the teachings from the prior art itself would . . . have suggested the claimed subject matter to a person of ordinary skill in the art.'" *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993) (quoting *In re Rinehart*, 531 F.2d 1048, 1051, 189 USPQ 143, 147 (CCPA 1976)).

Here, Shewd "relates . . . to a method for controlling computer network security." Col. 1, ll. 12-13. The examiner relies on "column 13 lines 6-19" and "column . . . 14 line 40-15 line 42" of the reference to teach storing policies in, and providing session dependent data to, a network device. (Final Rej. at 3.) These

passages disclose that in a computer network "[e]ach firewall maintains a rule base that instructs the firewall how to handle both inbound and outbound communications between network objects. . . ." Col. 14, ll. 62-65. When Shewd's host1 initiates a session with its host2 by sending a packet to the latter, for example, "[f]irewall1 will intercept the packet and determine that communications between host1 and host2 are to be modified in some way, e.g., encryption, decryption, address translation, etc." *Id.* at ll. 55-58. "All modifications, i.e., encryption, decryption, signing and address translation are performed on a selective basis in accordance with the contents of the rule base." Col. 13, ll. 10-13. Although we understand the examiner to read the claimed content, policies, and network device on the reference's packets, rules, and firewall, respectively, we are uncertain on what portion of Shewd the examiner reads the claimed session dependent data. We will not "resort to speculation," *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), as to the examiner's position.

For its part, Belfiore "provides an intelligent mechanism for automatically initiating a search when a user enters text that cannot be properly interpreted as a [uniform resource locator] URL." Col. 3, ll. 59-62. The examiner relies on the abstract of the reference to teach modifying content provided to a user of a device. (Final Rej. at 3.) The abstract discloses that a web "browser may modify a returned web page to highlight search terms used in the query." Abs., ll. 21-23.

Even if Belfiore's teaching of highlighting searched terms in a returned web page had been combined with Shewd's teaching of encrypting, decrypting, signing, or translating the address of packets based on the contents of a firewall's rule base, we are not persuaded that the combination would have suggested highlighting the searched terms based on the contents of the rule base. To the contrary, we believe that the searched terms would have been highlighted based on an associated "search engine query using . . . user-entered text. . . ." Belfiore, abs., l. 14. Because we are uncertain on what portion of Shewd the examiner reads the claimed session dependent data, moreover, we are not persuaded that the combination would have suggested highlighting the searched terms based on session dependent data. Therefore, we reverse the obviousness rejection of claim 9; of claims 2, 7, 8-13, and 43, which depend therefrom; on claim 23; of claims 16, 21-27, and 44, which depend therefrom; on claims 37; and on claims 30, 35,[3] 36, 38-41, and 45, which depend therefrom.

CONCLUSION

In summary, the rejection of claims 2, 7, 8-13 16, 21-27, 30, 35-41, and 43-45 under § 103(a) is reversed.

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[3]Although claim 35 recites in pertinent part "[a] computer program product according to Claim 29," the latter claim has been canceled. (Paper No. 3 at 3.) Consequently, we treat claim 35 as instead depending from claim 37.

REVERSED

KENNETH W. HAIRSTON
Administrative Patent Judge

MICHAEL R. FLEMING
Administrative Patent Judge

LANCE LEONARD BARRY
Administrative Patent Judge

) BOARD OF PATENT
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